

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA
PITTSBURGH

KENNETH J. KONIAS JR.,

Plaintiff,

vs.

DAVID DRUSKIN, PA-C; KRISTINA
TANNER, MICHAEL HERBIK, DOCTOR;
MARK ROMEASE, NEDRA GREGO-
RICE, CHCA; MARK V. CAPOZZA,
CORRECT CARE SOLUTIONS, MEDICAL
PROVIDER; JOHN E. WETZEL, KIM
BILLOW, DORINA VARNER, CHIEF
GRIEVANCE ADMINISTRATOR;
PENNSYLVANIA DEPARTMENT OF
CORRECTIONS, BOB MARSH, DOCTOR;
AND ALL MEDICAL STAFF @ SCI
FAYETTE WORKING THE NIGHT SHIFT
ON NOVEMBER 24, 25, 26, 2017,

Defendants,

2:19-CV-01550-CRE

ORDER

AND NOW, this 28th day of September, 2021, upon consideration of the following:

- (1) A motion to dismiss for failure to state a claim under Fed. R. Civ. P. 12(b)(6) by Kim Billow, Mark V. Capozza, Nedra Greco-Rice, Bob Marsh, Pennsylvania Department of Corrections, Mark Romease, Kristina Tanner, Dorina Varner and John E. Wetzel (collectively “Corrections Defendants”) (ECF No. 45);
- (2) A motion to dismiss for failure to state a claim under Fed. R. Civ. P. 12(b)(6) by Correct Care Solutions, David Druskin and Michael Herbig (collectively “Medical Defendants”) (ECF No. 48); and
- (3) A motion to strike certificate of merit by Medical Defendants (ECF No. 50),

IT IS HEREBY ORDERED that Corrections Defendants’ motion to dismiss (ECF No. 45) is granted in its entirety, Medical Defendants’ motion to dismiss (ECF No. 48) is granted in part and denied in part and Medical Defendants’ motion to strike certificate of merit (ECF No 50) is

denied without prejudice. The following claims remain: (1) An Eighth Amendment deliberate indifference claim under § 1983 against Dr. Herbik, PA Druskin and the John Doe Defendants; and (2) a state law negligence claim against Dr. Herbik, PA Druskin and the John Doe Defendants.

Remaining Defendants shall file an Answer by **October 12, 2021**.

By the Court:

s/ Cynthia Reed Eddy

Cynthia Reed Eddy

Chief United States Magistrate Judge